



DEPARTMENT OF STATE

Washington, D.C. 20520

August 20, 1974

MEMORANDUM TO: Mr. William Brown
Interagency Classification
Review Committee

SUBJECT: Comments on State and Defense Papers on
Strengthening ICRC

State Paper

It is apparently generally agreed that, while there is a clear and immediate need for some additions to ICRC staff in order to cope with present responsibilities, no overall plan can be developed until the parameters of ICRC future responsibilities are known. In testimony before the Senate and House Committees on amendments affecting the classification system, the Departments of State and Justice have indicated they are prepared to work with Congress to develop an executive body with a legislated mandate in this area.

In the circumstances, it seems that the only sensible thing to do is for a group from the executive agencies concerned to meet with the Senate and House committees, probably first at the staff level, and start discussing what will meet Congressional concerns and what the executive agencies would be prepared to accept. The ICRC would serve as a coordination point to prepare a position for these discussions. Once discussions began ICRC would be used to brief all agencies on the course of the discussions. Then, at some point, a definite proposal would evolve and could be presented to OMB for formal approval if legislation is in fact needed or, if not, ICRC could request such agency authorization as necessary.


If this idea makes sense, the ICRC as a first step could decide who should represent the Executive branch and what its terms of reference should be in very general terms.

Defense Paper

We believe the Defense proposals for supplementing ICRC staff and for the functions to be performed could serve a

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useful purpose. It would make the ICRC a more visible and substantive institution at a critical time. We believe, however, that implementing this proposal would only be an interim measure and could not be considered the necessary comprehensive response to Congressional concerns. The comprehensive approach should be developed in coordination with the appropriate Congressional committees.


K. E. Malmberg

Concurrence:

PA - Mr. Blair
L - Mr. Feldman
H - Mr. Goldberg

L/M/SCA:KEMalmberg:ad

State

MEMORANDUM FOR: Members of ICRC

SUBJECT: Strengthening ICRC

As indicated in the June meeting of the ICRC, the ICRC is the only existing inter-agency mechanism for discussion of what steps might be taken in response to Congressional concern over the security classification system to assure effective oversight within the Executive Branch. In testimony before the Moorhead Committee both the State and Justice Departments have indicated willingness to establish an Executive agency with real oversight authority and to which the Congress can look with confidence. The thoughts in this paper are to stimulate discussion, and the Department is not wedded to any or all of them.

I. Strengthening the ICRC

Since the ICRC is an existing organization with a mandate from the President, it is logical to examine strengthening of the ICRC as the first possibility to meet the Congressional concerns as expressed in pending legislation and hearings related to that legislation. The obvious areas for consideration are staff, chairmanship, and authority.

A. Staff

The present staff of two persons is not adequate to keep up even with the existing responsibilities of the ICRC. As originally established, the ICRC had a chairman with no other Government responsibilities. Since his resignation, the staff has necessarily had to perform some of his functions as well as their own. Additional

staff would first be assigned on reimbursable detail but convert to regular appointment.

The number of additional staff will depend upon what additional functions and authorities the ICRC has, which will be discussed below, but it will also depend upon what is expected of the staff whatever the functions of the ICRC. In this connection, we would expect that the staff would prepare for each session of the ICRC, not only the agenda, but a paper on each agenda item with options and analysis of the issues. They would also be expected to record the decision of the ICRC and implement that decision, either by taking actions within ICRC authority or following up with the Government agency or agencies with action authority. On appeals to the ICRC in its classification review role, the staff would be expected to prepare a staff study for the Chairman from the perspective of the ICRC as responsible to the Congress as well as to the Executive for classification oversight.

B. Chairman

As indicated in the last ICRC meeting, there are advantages and disadvantages to both a chairman who has other full-time Government responsibilities and one who does not. We think, however, that if the ICRC is to have a new role responsive to the Congress, an officer of an

Executive agency will be at a disadvantage because he may be placed in a position where his agency will have an interest in a matter before the ICRC which is adverse to ICRC's institutional interests.

As chairman, if there is general agreement that a person with no full-time government responsibilities is preferable, the question next is should he be a full-time or WAE employee of ICRC. This again will depend to some extent on what enlarged responsibilities the ICRC may have. In order to be fully responsive to Congressional concerns about abuse of classification, the Chairman probably should be full-time, but it may be that even an expanded ICRC will not be sufficiently attractive to a high level person on a full-time basis.

There are two additional considerations: (i) should the Chairman (and thereby the ICRC) be responsible to the NSC or to the President? (ii) short of legislation, how can the chairman be provided adequate authority to get the agencies to take those actions necessary to restore Congressional confidence?

C. Authority

(1) One possibility for enlarging the ICRC function would be if, in addition to hearing appeals in declassification review cases of materials more than ten years old, the ICRC were to be authorized to review agency denials under the Freedom of Information Act of classified material less than 10 years old. This review

could take place at the initiative of an ICRC member (the Justice Department, for example, is consulted before any agency issues a final denial) on request of any of the appropriate committees of the Congress; or of categories of materials specified by the ICRC (e.g. all Top Secret documents not involving intelligence information or other technical material).

(2) In any event, the ICRC should be given a clear mandate to oversee the administration and implementation of the whole Executive branch classification program.

Among the specifics could be:

(a) Evaluate education and orientation programs relating to classification as conducted by all agencies and make recommendations.

(b) Prepare periodic reports to the Government Operations Committees of the Congress. These reports should show by agency the number of officers authorized to classify at each level; the number of classified documents produced; the number of classification abuses which occur (broken down as overclassification, underclassification or other forms of abuse); and should describe areas in which ICRC considers improvement to be necessary.

(c) Testify and prepare comments on bills in the classification and Freedom of Information areas and be a coordination point for OMB on reports in these areas by all agencies.

(d) Establish a public advisory committee with a broadly based composition to provide fresh insights into classification problems.

(3) As the ICRC thus strengthened develops, some issues that might otherwise go to the courts could be referred to ICRC, e.g. to decide whether proper classification procedures have been followed rather than prove it through testimony in court.

II. Other Actions

If no strengthening of ICRC is to take place, then the President should establish a new body with the additional functions described in I.C. above, as well as declassification review (which would be transferred from the ICRC). This committee should not be under the NSC but report directly to the President, so that there is no confusion between responsibility of the NSC to protect security information and the responsibility of this new body to maximize public disclosure. Its functions should be set forth in an Executive Order.

L/M/SCA:KEMalmborg:len
7/30/74

Discussion Papers - ICRC Staff Requirements

During last month's meeting of the ICRC it was suggested that members provide recommendations for ways and means of enhancing ICRC monitorship of the Information Security Program.

I should like to take this opportunity to reaffirm the previous suggestions of the Department of Defense that an ICRC inspection team be established to perform program reviews in the various departments and agencies of the Executive Branch.

As you are aware, the Department of Defense early in the implementation of Executive Order 11652, established an Evaluation Division. This Division is responsible for monitoring the implementation of the Information Security Program throughout DoD through inspection and reporting. This Division has proven to be our most effective monitorship tool. By conducting program reviews from the OSD level, it stresses the interest of the highest officials in the success of the Program. This factor alone contributes to increased attention by management personnel within the reviewed activities. More importantly however, the conduct of program reviews by officials removed from the direct chain of command or supervision creates a relaxed atmosphere conducive to an open and frank discussion between reviewers and reviewees concerning problem areas and suggestions for Program improvement.

Management of the Information Security Program cannot be satisfied with just prescribing rules and regulations to operate its system. The most effective management at all levels is obtained through day-to-day contacts, observations, evaluations, reporting and corrective action instituted by the next higher echelon.

By and large, the officials at all levels who are clothed with management authority and responsibility, understand their prerogatives and follow prescribed regulations. However, management officials, including the ICRC, must know how well their instructions are meeting the needs of the organization, the degree of attainments or accomplishments, problem areas and strengths and weaknesses. It is only in this way that management can proceed to develop and improve the system.

To establish an effective inspection apparatus at the ICRC level, it would appear desirable to create positions for three full-time security specialists in addition to full-time clerical assistance. It is envisioned that these personnel would perform pre-coordinated program reviews of the various departments and agencies of the Executive Branch. During the course of these reviews, personnel would concentrate on effective implementation with particular emphasis on assuring that program/project managers provide the best possible classification guidance at the start of their particular programs or projects. In this way, we can be assured that maximum attention is being devoted to controlling classification in the

first instance, thereby avoiding the proliferation of unnecessarily classified documents.

Recognizing the limited resources available to the ICRC staff as presently constituted and the possible ramifications inherent in augmentation, we would suggest as the minimal alternative the establishment of a position of one full-time security specialist on the ICRC staff. This would be supplemented by the availability of selected personnel, representing members of the ICRC, to serve as members on the ICRC inspection team. Inasmuch as this additional duty could be on a rotational basis, we do not feel that it would impose an overbearing burden on any ICRC Department. Thus, for example, three members could designate representatives to the inspection team for one quarter. During a three day program conducted during the quarter, it is envisioned that representative elements of 5-6 Executive Branch agencies could be inspected and the results reported to the ICRC. In turn, the provision of an analysis of these to the Congress would demonstrate the willingness of the ICRC to fully cooperate with that body.

As an additional thought, recommend that consideration be given to revising the current quarterly report requirements to the ICRC. For example, it would not appear that current ICRC staff resources are sufficient to fully exploit the results of Quarterly Reports as now provided. For example, the expected benefits to be derived from analysis of the report covering Requests for Declassification Review do not appear consistent with the time and effort required in its

preparation and submission. It would appear much more feasible to have the departments report to the ICRC the number of new requests received during the quarter and the overall status of actions taken. Of course, the individual departments and agencies would maintain a running account of individual actions and could be queried on any action should the need arise.

Similar rationale should be applied to the report requirements concerning classification authorities. By revising these procedures, the ICRC would still be obtaining reports of equal significance but the administrative burden on both the ICRC and the departments would be significantly reduced thereby providing additional time which could more profitably be spent on monitorship of the Program.